

**UNITED STATES DISTRICT COURT**  
**Western District of Texas**  
**Austin Division**

PEDRO BENITEZ,

*Plaintiff*

V.

PROCOLLECT, INC.

&

WESTERN SURETY CO.

*Defendants.*

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CASE NUMBER: 1:19-cv-00742

## DEMAND FOR JURY TRIAL

## ORIGINAL COMPLAINT

1. Plaintiff Pedro Benitez brings this action for claims under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.*, and the Texas Debt Collection Act ("TDCA"), Tex. Fin. Code Chapter 392, to obtain statutory damages, actual damages, injunctive relief, costs and a reasonable attorney's fee for the Defendant's violations of the FDCPA and the TDCA.

## **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a).

3. Venue is proper in the United States District Court for the Western District of Texas, Austin Division, because the acts and transactions occurred in this district and because the Defendants transacts business in this district.

## THE PARTIES

4. Plaintiff Pedro Benitez ("**Plaintiff**" or "**Benitez**") is an individual who resides in Travis County, Texas.

5. Defendant ProCollect, Inc. (“**ProCollect**”), is a company organized and existing under the laws of the State of Texas. ProCollect may be served by serving its registered agent at the following address:

John W. Bowdich  
10440 N. Central Expressway, Suite 1540  
Dallas, TX 75231

6. Defendant Western Surety Co. may be served by serving its registered agent at the following address:

CT Corporation System  
1999 Bryan St.  
Ste. 900  
Dallas, TX 75201

7. Western Surety Co. is the surety for a bond wherein ProCollect is the principal.

### **FACTUAL ALLEGATIONS**

8. Benitez is a man residing in Travis County, Texas.

9. In 2016, Benitez was residing at The Zone at East End apartment complex.

10. A dispute arose between Benitez and his landlord.

11. The Zone at East End filed a forcible entry and detainer (eviction) lawsuit against Benitez as cause # J4-CV-16-000495 in the Justice Court, Precinct Four, of Travis County, Texas.

12. After a jury trial, The Zone at East End was awarded a judgment for possession of the leased apartment, \$880.00 as rent, plus costs against Benitez.

13. Interest on the judgment is 5.00%.

14. The judgment was signed on March 22, 2016.

15. Attached as Exhibit "1" is a true and correct copy of the judgment rendered in that case.

16. On information and belief, after default the alleged debt was assigned to ProCollect for collection.

17. Procollect describes itself as being “one of the nation’s premier debt collection agencies[.]”<sup>1</sup>

18. On information and belief, Procollect primarily collects debts related to multifamily rental leases.

19. Among other collection efforts, ProCollect reported information regarding the debt to one or more credit reporting agencies

20. On June 1, 2019, ProCollect reported to the Experian consumer credit reporting agency that Benitez owed \$2500.00 relating to his tenancy at The Zone at East End apartment complex.

21. Plaintiff is a natural person.

22. Plaintiff allegedly incurred a debt for goods and services used for personal, family or household purposes.

23. The alleged debt is a “debt” as that term is defined by § 1692a(5) of the FDCPA.

24. The alleged debt is a "consumer debt" as that term is defined by § 392.001(2) of the TDCA.

25. Plaintiff is a "consumer" as that term is defined by § 1692a(3) of the FDCPA.

26. Plaintiff is a "consumer" as that term is defined by § 392.001(1) of the TDCA.

27. ProCollect is a “debt collector” as defined by § 1692a(6) of the FDCPA.

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<sup>1</sup> See procollect.com

28. ProCollect is a "third-party debt collector" as defined by § 392.001(7) of the TDCA.

**COUNT I. VIOLATION OF THE FDCPA § 1692e(2)**

29. Plaintiff re-alleges the above paragraphs as if set forth fully in this count.
30. On June 1, 2019, the amount of the alleged debt was not \$2500.00.
31. ProCollect has falsely represented the character and amount of the debt.

**COUNT II. VIOLATION OF TDCA § 392.304**

32. Plaintiff re-alleges the above paragraphs as if set forth fully in this count.
33. On June 1, 2019, the amount of the alleged debt was not \$2500.00.
34. ProCollect misrepresented the amount of Plaintiff's alleged debt.

**REQUEST FOR RELIEF**

35. Plaintiff requests that this Court award him:
- a. Statutory damages;
  - b. Injunctive relief;
  - c. Costs; and
  - d. A reasonable attorney's fee.

**JURY DEMAND**

Plaintiff demands trial by jury.

Respectfully Submitted,  
By: s/Tyler Hickle  
Plaintiff's Attorney

Tyler Hickle, SBN 24069916  
**Law Office of Tyler Hickle, PLLC**  
4005C Banister Lane, Ste. 120C  
Austin, TX 78704  
Tel: (512) 289-3831 Fax: (512) 870-9505  
tylerhickle@hicklelegal.com

# Exhibit 1

## Cause No. J4-CV-16-000495

**THE ZONE AT EAST END**  
Plaintiff

vs.

**PEDRO BENITEZ**  
Defendant

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IN THE JUSTICE COURT

PRECINCT FOUR


TRAVIS COUNTY, TEXAS

## JUDGMENT

**BE IT REMEMBERED** on this the 22nd day of March, 2016, came to be tried the above-entitled and numbered cause. The Plaintiff, THE ZONE AT EAST END, and the Defendant, PEDRO BENITEZ, did appear and announce ready for trial; and thereupon came a jury of good and lawful men and women, who, being duly impaneled and sworn, upon their oaths do say by their verdict that they find the Plaintiff is entitled to recover from the Defendant possession of the premises described in Plaintiff's Complaint, and further finds for the Plaintiff for costs and rent owed in the amount as hereinafter set out below; and further finds that the amount of rent due for each rental pay period is \$ 440.00; of which amount \$ 0 is payable by a government agency and \$ 440.00 is payable by the tenant.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** by the Court that the said Plaintiff do have and recover possession of the following described premises, for which let Writ of Possession issue, to wit: Building & premises located at: 4700 E. RIVERSIDE DR. #0727D, AUSTIN, TX 78741, Precinct Four, Travis County, Texas, and that Defendant and all occupants be evicted from said premises by issuance of a Writ of Possession (5) five days after this Judgment and further that Plaintiff do have and recover of and from said Defendant the sum of \$ 880 as rent, all costs of suit, together with interest thereon from the date of Judgment at the rate of 5.00% per annum, until paid, for which let execution issue.

SIGNED on this the 22nd day of March, 2016.

  
\_\_\_\_\_  
Judge Raul Arturo Gonzalez  
Justice of the Peace, Precinct Four  
Travis County, Texas

**APPEAL BOND:** \$ 1000

If you wish to appeal this decision to the County Court at law, you have five (5) days to file the proper bond in this Justice Court.